

[Floor Situation](#) | [Summary](#) | [Background](#) | [Cost](#) | [Staff Contact](#)

[H.R. 1557, Federal Employee Antidiscrimination Act of 2015](#)

FLOOR SITUATION

On Tuesday, July 21, 2015, the House will consider [H.R. 1557](#), *the Federal Employee Antidiscrimination Act of 2015*, under suspension of the rules. H.R. 1557 was introduced on March 24, 2015, by Rep. Elijah Cummings (D-MD) and was referred to the Committee on Oversight and Government Reform, which ordered the bill reported by voice vote on March 25, 2015.

SUMMARY

H.R. 1557 amends the Notification and Federal Employee Antidiscrimination and Retaliation (No FEAR) Act of 2002 to strengthen Equal Employment Opportunity protections for federal employees.

Specifically, the bill:

- Modifies an existing sense of Congress in the No FEAR Act to affirm that accountability in the enforcement of federal employee rights is furthered when federal agencies take appropriate disciplinary action against federal employees who have acted in a discriminatory or retaliatory manner, while preserving their due process rights.
- Requires that when an agency or the Equal Employment Opportunity Commission (EEOC) finds that a discriminatory or retaliatory act has occurred, the agency must post the finding for at least one year on the agency's website.
- Requires that annual reports mandated by the No FEAR Act be submitted electronically.
- Requires a federal agency to submit a report to the EEOC within 60 days of the issuance of a finding that a discriminatory or retaliatory act has occurred, stating whether disciplinary action has been initiated against a federal employee as a result of the improper act.
- Expands the information federal agencies are required to post on their websites regarding each finding of discrimination or retaliation to include the date of the finding, the affected agency, the law violated, and whether a decision has been made regarding necessary disciplinary action. The bill also applies these new requirements to the EEOC.

- Adds a new section to the No FEAR Act requiring federal agencies to establish a system to track each complaint alleging that a discriminatory act has been committed from inception to resolution. The system must also track whether a decision has been made regarding necessary disciplinary action resulting from a finding that discrimination has occurred.
- Adds a new section to the No FEAR Act requiring that if an agency takes an adverse action against an employee for an act of discrimination or retaliation—and after all appeals arising from the adverse action have been exhausted—the agency shall make a notation of the adverse action and the reason for the action in the personnel record of the individual against whom the action was taken.
- Adds a new title to the No FEAR Act requiring each federal agency to implement a model EEO program that is not under the control of the agency's Human Capital or General Counsel office, that is free of internal conflicts of interest, and that ensures the efficient and fair resolution of complaints alleging discrimination or retaliation.
 - The new title: requires the head of each EEO program in a federal agency to report directly to the head of the agency; mandates that the EEOC make a referral to the Office of Special Counsel (OSC) whenever the Commission issues a finding that a discriminatory or retaliatory act has occurred; and requires the OSC to accept and review referrals from the EEOC and notify the EEOC whenever it initiates disciplinary action in response to a referral.

BACKGROUND

The No FEAR Act of 2002 ([Public 107-174](#)) imposed “additional duties upon federal agency employers intended to reinvigorate their longstanding obligation to provide a work environment free of discrimination and retaliation.”¹ The law requires federal agencies to:²

- Provide annual notice to employees, former employees, and applicants for federal employment concerning the rights and remedies available under employment discrimination and whistleblower protection laws;
- Provide training, at least every two years, to employees, including managers, regarding the rights and remedies available under those laws;
- Submit to Congress, the EEOC, the Department of Justice, and the Office of Personnel Management (OPM), an annual report setting forth information about the agency's efforts to improve compliance with employment discrimination and whistleblower protection laws and detailing the status of complaints brought against the agency under these laws; and,
- Post quarterly on their public websites summary statistical data pertaining to EEO complaints filed with the agency.

The EEOC “is responsible for enforcing federal laws that make it illegal to discriminate against a job applicant or an employee because of the person's race, color, religion, sex (including pregnancy), national origin, age (40 or older), disability or genetic information.”³ Under current law, federal Equal

¹ <http://www.eeoc.gov/eeoc/statistics/nofear/qanda.cfm>

² Id.

³ <http://www.eeoc.gov/eeoc/>

Employment Opportunity (EEO) programs “must identify and eliminate barriers to equal opportunity.”⁴ These programs are designed to ensure the guarantee of equal opportunity in federal workplaces. Federal employees and applicants for federal employment who believe they have been discriminated against have the right to file a complaint with their agency’s EEO program. In fiscal year 2012, federal employees and job applicants filed nearly 16,000 complaints alleging discrimination.⁵

Some federal agencies have fallen short of EEOC standards for implementing their EEO programs. For example, in 2014, the EEOC reported that the Social Security Administration (SSA) failed to maintain the standards of a model program, including by failing to ensure efficient management of the various stages of the complaint process, provide uniform training to ensure equal opportunities, and implement effective and efficient anti-harassment policies and procedures. The EEOC made more than 60 recommendations for reform of SSA’s EEO program.⁶

H.R. 1557 is designed to ensure that federal agencies are using best practices to manage their EEO programs and “strengthen the accountability mechanisms that are central to the effectiveness of the EEO process.”⁷

COST

The Congressional Budget Office (CBO) [estimates](#) that implementing H.R. 1557 would increase federal administrative costs by less than \$500,000 annually, assuming the availability of appropriated funds. CBO also estimates that enacting H.R. 1557 could affect direct spending by some agencies (such as the Tennessee Valley Authority) because they are authorized to use receipts from the sale of goods, fees, and other collections to cover their operating costs. Therefore, pay-as-you-go procedures apply. Because most of those agencies can make adjustments to the amounts collected, CBO estimates that any net changes in direct spending by those agencies would not be significant. Enacting the bill would not affect revenues.

STAFF CONTACT

For questions or further information please contact [Jerry White](#) with the House Republican Policy Committee by email or at 5-0190.

⁴ [House Report 114-147](#) at 2.

⁵ Id.

⁶ Id.

⁷ Id.